

STATE of INDIANA

DEPARTMENT OF REVENUE
INDIANA GOVERNMENT CENTER NORTH
100 N. SENATE AVE



INDIANAPOLIS, IN 46204-2253

INFORMATION BULLETIN #1

INCOME TAX

AUGUST 2015

(Replaces Bulletin #1 dated May 2012)

Effective Date: Jan. 1, 2015

SUBJECT: Fiduciary Income Tax Return

REFERENCE: IC 6-3-2-2; IC 5-3-4-1; IC 6-3-4-15; IC 6-8.1-10

DISCLAIMER: Information bulletins are intended to provide nontechnical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules, and court decisions. Any information that is not consistent with the law, regulations, or court decisions is not binding on either the department or the taxpayer. Therefore, the information provided in this bulletin should only serve as a foundation for further investigation and study of the current law and procedures related to its subject matter.

SUMMARY OF CHANGES

Require a trust or an estate to file a composite return on behalf of all nonresident beneficiaries. Provides that an extension for payment of tax and filing of a composite return will be automatically extended to the same extended due date for the entity granted an extension under IC 6-8.1-6-1.

REQUIREMENT FOR FILING

Resident estates and trusts having gross income of \$600 or more, federal taxable income, or no federal taxable income due to distributions during the tax year must file Form IT-41, Indiana Fiduciary Income Tax Return.

Nonresident estates and trusts having gross income of \$600 or more or federal taxable income for the tax year from within the state of Indiana must file Form IT-41. Federal taxable income from Indiana includes all allocable income from Indiana partnerships, LLCs, or an S corporation.

A bank with common trust funds filing Form 1065 for federal income tax purposes must file Form IT-65, Indiana Partnership Income Tax Return. The bank must also comply with the provisions of Internal Revenue Code Regulation 1.6032-1.

A bankruptcy estate of an individual must file Form IT-41 with an enclosed copy of the individual's income tax return. The fiduciary return will report only the amount of tax computed on the individual income tax return.

A guardian of a ward's estate does not file the fiduciary income tax return but must file an individual income tax return on behalf of the ward.

Charitable remainder trusts and charitable lead trusts filing federal Form 5227 must file Form IT-41 and enclose a copy of Form 5227.

Unless required for purposes of identification, a grantor should not file the fiduciary income tax return. However, any income taxable to the grantor must be reported on a separate information sheet and enclosed with the fiduciary income tax return. The grantor should report such income and any allowable deductions on the individual income tax return.

DETERMINATION OF TAXABLE INCOME

"Adjusted gross income" for estates and trusts means "taxable income" as defined in Section 641(b) of the Internal Revenue Code, reduced by income that is exempt from state taxation by federal statute or by the United States Constitution. An estate or a trust must "add back" to its adjusted gross income the ordinary income portions of a lump-sum distribution eligible for the 5- or 10-year averaging method. The fiduciary must enclose a copy of Form 4972 to the IT-41 if the fiduciary has elected to use the 5- or 10-year averaging method for a lump-sum distribution. The fiduciary may deduct federal estate tax attributable to the lump-sum distribution in arriving at the reportable amount of the distribution.

For purposes of filing the Indiana fiduciary income tax return, estates and trusts are classified as either resident or nonresident. The residence of an estate or a trust is the place where it is administered.

Resident estates and trusts are taxable on all income exceeding \$600, regardless of where it is earned. Thus, resident fiduciaries must report all income wherever derived.

Nonresident estates and trusts are taxable in Indiana on all income exceeding \$600 derived from Indiana sources. Income derived from sources within and without Indiana shall be determined under IC 6-3-2-2. Nonresident estates and trusts must adjust federal taxable income (or loss) to reflect taxable income allocable to Indiana.

DEDUCTIONS ALLOCABLE TO TAX-EXEMPT INCOME

Deductions allocable to tax-exempt income must be used only against tax-exempt income. Any excess of such allocated deductions cannot be used to offset taxable income. Therefore, fiduciaries must "add back" administration expenses and all deductions attributable to tax-exempt income in arriving at Indiana taxable income.

CREDITS AGAINST TAX

Estates and trusts may claim, as a credit against adjusted gross income tax, taxes paid to other states on income subject to the Indiana tax. Other credits are available and are similar to credits available to individuals. Information Bulletin #59 has more detailed information concerning the availability of credits. It is available online at <http://in.gov/dor/3650.htm>.

NONRESIDENT BENEFICIARIES

A nonresident beneficiary of a trust or an estate must be included in the composite adjusted gross income tax return filed by the trust or estate if the fiduciary distributes or reports income subject to Indiana income tax to the beneficiary. The distributed income retains its character from the trust or estate. Income that is distributed to a beneficiary of a trust or an estate is reported by the beneficiary. Income is apportioned between Indiana and other states using the relevant apportionment formula.

COMPOSITE RETURN REPORTING REQUIREMENTS

A resident trust or estate distributing or reporting income to a nonresident beneficiary is required to file a composite return and pay tax for all nonresident beneficiaries even if the beneficiary has other Indiana source income. Items to be reported on the composite return include any income with a nexus to Indiana and subject to adjusted gross income tax such as farm income; business income; rents and royalties from Indiana real estate; and other income such as no-investment income reported on K-1s from an Indiana partnership, LLC, or S corporation. Reportable income does not include investment income, including interest; dividends; capital gains; distributions of income in respect of a decedent such as from annuities, pensions, or retirement funds; investment income reported on K-1s from a partnership, an LLC, or an S corporation; rents and royalties from out-of-state real property; distributions of corpus; or any other income not subject to adjusted gross income tax.

An Indiana fiduciary administering a trust or an estate that is subject to the laws of another state is not subject to the composite filing requirements to the extent that the distributions to nonresidents consist of income from out-of-state sources. Distributions from annuities or pension and profit-sharing trusts with Indiana assets are not subject to withholding because the pension itself is the source of the income and the income is generally taxable by the state in which the distributee resides.

The composite filing provisions apply only to distributions to nonresident beneficiaries. The beneficiary's residency should be determined at the time the beneficiary acquires a right to the distribution. Part-year residents and nonresidents may take credit on their annual adjusted gross income tax returns for any tax withheld.

Fiduciaries must withhold adjusted gross income tax at the rate in effect for a particular taxable year. Any deficiency in taxes withheld and remitted to the state will cause the trust or estate to become liable for the penalties and interest imposed by IC 6-8.1-10. If not otherwise paid, the

trust or estate also may be liable for the tax deficiency. The department may, at its option, require the withholding agent to post a bond to ensure payment of the tax.

The withholding requirements imposed on trusts and estates by IC 6-3-4-15 do not relieve these entities from which tax was withheld from filing their own annual income tax returns. Also, the withholding requirements do not relieve a nonresident beneficiary from filing an individual income tax return, regardless of whether tax will be owed in excess of that withheld by the fiduciary. The nonresident beneficiary will be liable to the department for any adjusted gross income tax the fiduciary has failed to withhold.

USE TAX

The purchase of all tangible personal property to be used by the fiduciary is subject to either the sales or the use tax. Generally, the sales tax should be paid at the time of purchase. However, if the seller is an out-of-state merchant or if, for any other reason, the sales tax is not paid at the time of purchase, the buyer is liable for payment of the use tax at the same rate as the sales tax.

ESTIMATED PAYMENTS

Indiana does not require trusts and estates to make estimated payments. Fiduciaries electing to make estimated payments must use Form IT-41ES, Fiduciary Estimated Tax and Extension Payment Voucher.

EXTENSIONS

If an estate or a trust is unable to complete the return by the due date, the fiduciary may request an extension of time to file Form IT-41. To obtain an extension of time to file Form IT-41, the fiduciary must file either a copy of the approved request for extension of time to file the federal fiduciary return (Form 7004) or Form IT-9, Indiana Application for Extension. The fiduciary must pay at least 90% of the final Indiana tax liability by the due date of the return. The payment must be made with a completed Form IT-41ES. The due date for payment of tax and filing a composite return is the same extended due date for the filing of the annual return of the estate or trust.

TAXABLE YEAR DEFINED

The "taxable year" shall be the taxable year of the taxpayer as shown on Form 1041, U.S. Fiduciary Income Tax Return.

DUE DATES AND PERSONS REQUIRED TO FILE RETURNS

Returns of estates and trusts shall be filed on or before the 15th day of the 4th month following the close of the taxable year or on or before the extended due date if the taxpayer has requested and received an extension of time for filing such return. The fiduciary (executor or trustee) shall file the return of the estate or trust. The fiduciary must enclose a copy of Federal Form K-1 for each beneficiary.

MAILING ADDRESS

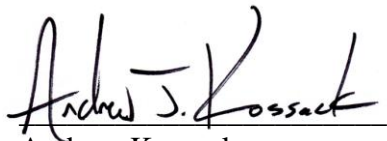
All fiduciary income tax returns must be mailed to the following address:

Indiana Department of Revenue

Fiduciary Section

P.O. Box 6192

Indianapolis, IN 46206-6192

A handwritten signature in black ink, reading "Andrew J. Kossack". The signature is written in a cursive style with a horizontal line underneath the name.

Andrew Kossack
Commissioner